

**Board of Health Minutes**  
**Monday, October 6, 2008, 6:00 PM**  
Meeting Room C, Town Hall  
25 Green Street, Ipswich, MA

**Call to Order:** Susan Hubbard called the meeting to order at 6:00 PM.

**Members attending:** Susan Hubbard, Dr. Spencer Amesbury, and Charles Hill.

**Others attending:** Health Director Colleen Fermon, Health Administrative Assistant Jennifer Brown, Nancy Meedzan, Larry Graham, P.E., Julie Martineau, Albert Howes, Wayne Castonguay, Bob Lynch, P.E., and Roger Equi.

**Citizens Queries:** None

**Minutes:**

Chuck Hill made a motion to approve the September 8, 2008 minutes. Susan Hubbard seconded the motion. The motion passed unanimously.

**6:00 – Hearing - Robert Carlman – 31 Allen Lane – represented by Atlantic Engineering and Survey Consultants Inc. – septic variance.**

Bob Lynch, P.E., presented, and a hearing was held to discuss variances from Title 5 for a sewage disposal system plan designed by George Zambouras, P.E., plan A0807-05, dated August 20, 2008 and last revised September 16, 2008, for three bedroom dwelling located at 31 Allen Lane, Ipswich, Massachusetts.

The following variances were requested:

- A 40% reduction in leaching area size with the use of a Presby Enviro-septic leaching system.
- A 2 foot reduction in the separation between the Soil Absorption System and estimated seasonal high groundwater (ESHGW). A 3 foot separation is proposed.

The system failed a Title 5 inspection on June 27, 2008. The property is currently for sale and the homeowner has requested a variance to allow the upgraded system to be placed in the front of the property.

The waterline will be relocated as part of the installation and is depicted on the septic design plan.

Susan Hubbard asked Colleen for her thoughts. Colleen felt that the system could be raised a foot but that would bring the grade to the dwelling.

Dr. Amesbury made a motion to grant the variances as requested with the following conditions:

- DEP approval.
- DEP approval letter recorded at the Southern Essex County Registry of Deeds with a copy provided to the Health Office prior to issuance of the Certificate of Compliance.
- A 2 year Operations & Maintenance contract for the Presby Enviro-septic system to be submitted to the Health Department prior to issuance of Disposal System Construction Permit.
- A Lifetime Maintenance restrictive covenant filed at the Southern Essex County Registry of Deeds with a recorded copy provided to the Health Office prior to issuance of Disposal System Construction Permit.
- Installer must be certified by Presby Environmental.
- Installer must provide a bill of lading certifying the sand meets ASTM C-33.
- Installer must provide a completed “System Installation Form” to the Health Office before the Certificate of Compliance can be issued.
- The system must be upgraded by June 27, 2010 with the Certificate of Compliance issued by said date.

Susan Hubbard seconded the motion. The motion passed unanimously.

**6:10 – Hearing - Theresa Shelzi – 56 North Ridge Road – represented by H.L. Graham Associates, Inc. – septic variances.**

Larry Graham, P.E. presented, and a hearing was held to consider variances from Title 5 for a sewage disposal system plan designed by Gerald McDonald, P.E., plan 07-718, dated July 3, 2008 and last revised September 26, 2008, for the 4 bedroom dwelling located at 56 North Ridge Road, Ipswich, Massachusetts.

Susan Hubbard questioned if abutters were notified. Mr. Graham did not notify the abutter as the abutter was notified previously regarding the tight tank plan when it went before the Board. The tight tank will be used as part of the conventional system that is before them and the tight tank was the only component that was within 10 feet of the property line. The tight tank will be installed in the next week or two.

At the September 2008 meeting, the retaining wall was discussed since a separate design for the wall by a different designer is proposed. The plan is proposing to use part of the foundation wall of the proposed addition as part of the septic retaining wall. For this property, the Board decided to allow a separate wall submission since it is unclear when the house and septic changes will occur.

Mr. Graham made changes to the retaining wall location based on the Board comments from September 2008. The retaining wall design is not currently before the Board of Health since it has not been submitted yet. The Health Agent will handle the review and approval of the wall design, when the wall design is submitted.

The following variances were requested:

- Reduction in setback from the septic tank/pump chamber (former tight tank) to the property line from 10 feet to 5 feet.
- Reduction in setback from the septic tank/pump chamber (former tight tank) to the slab foundation from 10 feet to 4 feet.
- Allow the septic tank/pump chamber (former tight tank) to be installed more than 3 feet below finished grade. A depth of 4 feet is proposed.
- A 40% reduction in leaching area size with the use of a Presby Enviro-septic leaching system.
- Reduction in setback of the leaching area to the coastal bank from the 100 foot local requirement to 95 feet.
- Reduction of flow design flow rate from 150 gallons/bedroom/day to 110 gallons/bedroom/day.
- Reduction in setback of the septic tank and pump chamber to the ACEC from the 150 foot local requirement to 126 feet.

Susan Hubbard asked Colleen for her thoughts. Colleen has reviewed the conventional system plan. The first three (3) variance requests were previously granted by the Board for the installation of the tight tank. Colleen recommended the Board grant the local variances requested. Additionally, she reiterated that the retaining wall needs approval prior to the installation of the conventional system.

Susan Hubbard made a motion, subject to the installation of the tight tank by the end of October 2008, to grant the variances as requested with the following conditions:

- A 2 year Operations & Maintenance contract for the Presby Enviro-septic system to be submitted to the Health Department prior to issuance of Disposal System Construction Permit.
- A Lifetime Maintenance restrictive covenant filed at the Southern Essex County Registry of Deeds with a recorded copy provided to the Health Office prior to issuance of Disposal System Construction Permit.
- The retaining wall plan must be submitted to the Health Agent and approved before the Disposal System Construction Permit can be issued.
- Written approval of the plan from Presby Environmental.

- Installer must be certified by Presby Environmental.
- Installer must provide a bill of lading certifying the sand meets ASTM C-33.
- Installer must provide a completed “System Installation Form” to the Health Office before the Certificate of Compliance can be issued.

Dr. Amesbury seconded the motion. The motion passed unanimously.

**6:15 – Hearing - Albert Howes – 39 Bayview Road – bedroom determination.**

Mr. Howes presented, and a hearing was held to discuss the bedroom count determined by the Health Agent after conducting a walkthrough of the dwelling on September 16, 2008.

The property failed a Title 5 inspection on June 28, 2007. Soil testing was conducted for the upgrade and the number of bedrooms needed to be determined for the septic upgrade design. The realtor for the property spoke with Colleen to confirm the number of bedrooms.

The walkthrough was done by Colleen to determine the number of bedrooms for the purpose of septic design and it was determined that one (1) bedroom met the definition of bedroom in accordance with the definition of bedroom provided in Title 5 310 CMR 15.000 and three (3) rooms on the second floor met the criteria outlined in the definition of bedroom except for the ceiling height. Two (2) rooms have six (6) foot ceilings and one (1) room has a six and a half (6 ½) foot ceiling.

Colleen obtained Assessor information and the dwelling is considered to have four (4) bedrooms currently, three (3) bedrooms in the late 1970’s and no bedrooms were specified prior to that; it was listed as a four (4) room dwelling.

The Title 5 definition of a bedroom specifies a ceiling height of seven (7) feet (as a minimum) for existing dwellings.

Colleen contacted Claire Golden at the Department of Environmental Protection (DEP) to see if they could provide any clarification since the house was built in 1954 according to assessor records.

The Department of Environmental Protection's response was: If the room(s) in question have been operating and constructed as bedrooms prior to the Code requiring seven (7) foot ceilings and the property owner has been assessed as having those rooms as bedrooms, it is difficult to say they are not bedrooms. Although they don't meet every criterion, Massachusetts Department of Environmental Protection is of the opinion that they are bedrooms since they have been used as bedrooms since they were constructed prior to the Code. Massachusetts Department of Environmental Protection recognizes that this may conflict with how these rooms are viewed under other applicable regulations but is only responding as it relates to Title 5.

Colleen said a minimum ceiling height of seven (7) feet for habitable spaces is also listed in the housing regulation under the State Sanitary Code, Chapter II so if a housing inspection was requested, a height of less than seven (7) feet for a room would be seen as a violation unless the Board of Health granted a variance.

Colleen wanted the Board to decide if they agreed with DEP’s response and wanted her to apply it to this case and other similar situations.

Susan Hubbard made a motion to agree with the Department of Environmental Protection’s opinion. The Board determined that the dwelling located at 39 Bayview Road contains four (4) bedrooms, for the purpose of the septic design, since Assessor records have listed the dwelling as having four (4) bedrooms for at least a decade and the dwelling was altered in the 1970’s before there was a State Building Code with ceiling height requirements. Chuck Hill seconded the motion. The motion passed unanimously.

**6:20 – Hearing - Julie Martineau, Director of the Ipswich Housing Authority – 7 C Agawam Village – Minimum Standards of Fitness for Human Habitation – request for a determination that the dwelling is fit for human habitation.**

Julie Martineau presented, and a hearing was held to consider withdrawal of the order condemning the dwelling issued on September 17, 2007 by the Board of Health.

As a result of a complaint received by the Health Department, a housing inspection was conducted at 7 Agawam Village, Unit C, Ipswich, on August 1, 2007. In accordance with Chapter II of the State Sanitary Code, 105 CMR 410.000: Minimum Standards of Fitness for Human Habitation, the following violations were found:

410.351: Owners Installation and Maintenance Responsibilities:

A front room window has a pane of glass that does not fit properly and therefore there is a gap. A bedroom window does not close properly and without force. The bedroom closets doors are off the track. There is a musty odor in the bedroom closet that has no doors.

At a meeting of the Board of Health on September 17, 2007, a hearing was conducted to determine if the dwelling was unfit for human habitation since the violations had not been corrected. It was the unanimous decision of the Board that the dwelling is unfit for human habitation since the odor problem has not been rectified within the prescribed timeframe as shown in the Health Agent's reports, from three visits to the unit; the tenant testified that the odor remained and that she was having difficulty living in the unit and the Ipswich Housing Authority has not presented any plan to remediate the odor immediately or in the near future.

The Board of Health issued an order condemning the dwelling and an order for the tenant to vacate the dwelling and the owner to secure the dwelling within 72 hours of the decision; by 7 pm on September 20, 2007. The dwelling was not to be occupied without the prior written permission of the Board of Health based upon the Board's written finding that the dwelling is fit for human habitation.

On September 9, 2008, the Health Agent conducted a re-inspection of the dwelling unit and confirmed that the closet doors have been replaced, both windows open and close, although with some effort, and the odor was gone.

Susan Hubbard made a motion to withdraw the order condemning the dwelling based on the results of the re-inspection and the understanding that the replacement of all the windows in Agawam Village is scheduled for spring 2009. Additionally, the Board determined that the dwelling unit was fit for human habitation, and therefore, can be occupied. Chuck Hill seconded the motion. The motion passed unanimously.

**6:25 – Discussion - Wayne Castonguay – Stormwater Management.**

Wayne Castonguay presented information regarding a storm water regulation warrant proposal scheduled to be heard at the Special Town Meeting on October 20, 2008.

Mr. Castonguay is a member of the Stormwater Management Advisory Committee created by the Board of Selectmen to do outreach to relevant town boards regarding a stormwater management by-law.

The Ipswich Stormwater Management Advisory Committee has developed a stormwater management bylaw to improve the way stormwater is managed throughout the community. The goals of the by-law are to improve coastal and inland water quality, to help alleviate flooding problems, and to maintain the quality of life for Ipswich residents by protecting natural resources.

Some of the issues Mr. Castonguay spoke about were concern in regards to flooding problems, streams and rivers running dry, water quality, and drainage problems caused from new developments.

Rainwater runs off developed areas to the waterways causing a major source of pollution in Ipswich. This issue came to a head in the 1990's when Ipswich clam flats and the Ipswich River were found to have problems with high levels of fecal coliform and heavy metals and sedimentation. When this occurs Ipswich clammers are put out of work for four (4) to five (5) days at a time. This is still happening and has put the ability to clam in Ipswich in jeopardy. Until now there have been no by-laws or regulatory basis to manage stormwater.

In 2000 a stormwater report made recommendations to address two (2) regulatory areas that were lacking;

1. New development and Re-development (land disturbance).  
Rainwater and land disturbance is washing off newly developed areas, creating contamination.
2. Illicit connections (private connections) to the stormwater system.

The proposed by-law sets up a permitting system to deal with these two (2) issues. Land disturbance in excess of ten thousand (10,000) square feet or more than fifty percent (50%) of an existing lot would be permitted. Connections to the town's storm water system would require a permit. Illicit connections would be handled by the Department of Public Works (DPW) and/or the Health Department if there was suspect sewerage.

The Environmental Protection Agency (EPA) now requires all communities to develop stormwater regulations so these recommendations are being re-visited with the intent to make them town by-laws. The storm water system has a DEP permit and the permit has requirements tied to it that say the town must look at illicit connections and land disturbance activities.

Since the Clean Water Act of the 1970's stormwater drains have been in violation. Ipswich must move to correct this violation in a timely fashion since now the Environmental Protection Agency (EPA) requires Cities and Towns to develop stormwater regulations.

Dr. Amesbury asked about problems during high rainfall events. Wayne said a lot of infiltration had been a problem but that has mostly been addressed. Dr. Amesbury asked about parking lot runoff. Wayne said existing parking lots would not be addressed. This bylaw would only address new development.

The Stormwater Management Advisory Committee sought the Board of Health's approval of the aforementioned By-law. The Board gave their support for the proposed regulations.

### **6:30 - Report of the Health Agent:**

**Recombiant DNA:** Colleen contacted a second consultant regarding drafting a Recombiant DNA regulation for Ipswich. The Town Manager will bring both proposals to the Finance Committee in October about a budget transfer.

**DEP Draft Regulations:** The Department of Environmental Protection (DEP) has draft regulations for geo-thermal (ground source) and hydro-thermal (hydronic) wells and Outdoor Hydronic Heaters.

**Annual Re-Permitting:** When Connelly's Drug Store first went before the Board they were exempted from the required permit for the sale of pre-wrapped candy since they were selling a minimal amount of candy at the check-out register only. In recent years this has changed. They now have an entire section of the store devoted to the sale of pre-wrapped candy so Colleen felt Connelly's sale of pre-wrapped candy has expanded beyond which the exemption was previously granted. The Board agreed with this determination. The Health Department will send a letter expressing that the Board has determined they must obtain a permit to sell pre-wrapped candy or opt not to sell candy.

**Next Board Meeting:** The next meetings of the Board of Health were scheduled for November 3, 2008 and December 1, 2008 at 6pm.

**Adjourn:** Susan Hubbard made the motion to adjourn at 6:50PM. Dr. Amesbury seconded the motion. The motion to adjourn passed unanimously.

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Susan Hubbard, Chairman

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Spencer Amesbury, Board Member

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Charles Hill, Board Member